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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,330

11/24/2003

James B. McCormick

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21888

7590

11/15/2007

THOMPSON COBURN, LLP  
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EXAMINER

BOWERS, NATHAN ANDREW

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

11/15/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPDOCKET@THOMPSONCOBURN.COM

<b>Office Action Summary</b>	Application No. 10/720,330	Applicant(s) MCCORMICK, JAMES B.	
	Examiner Nathan A. Bowers	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1) Claims 6 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathus (US 5856176) in view of Berry (US 5240854).

Mathus discloses a system of stackable tissue processing cassettes comprising a first cassette (Figure 1:20) that includes a bottom wall (Figure 1:22), a front wall, a back wall, and side walls forming a first container. This is described in column 2, line 50 to column 3, line 20. Column 4, lines 25-45 state that it is desirable to stack multiple cassettes without lids on top of each other, and column 5, lines 52-56 state that stacked cassettes include a plurality of apertures along the base walls and side walls to facilitate air circulation between the cassettes. However, it is unclear if these apertures are sufficient to allow liquids to flow from one cassette to the other.

Berry discloses a plurality of stackable cell processing cassettes. Each cassette includes a cell culture chamber (Figure 2:24). Liquids in one culture chamber are allowed to communicate with liquids in other culture chambers using a plurality of apertures (Figure 2:20) in the base walls. This is described in column 2, line 67 to column 3, line 36.

Mathus and Berry are analogous art because they are from the same field of endeavor regarding stackable cell culture containers.

At the time of the invention, it would have been obvious to ensure that the base wall and side wall apertures disclosed by Mathus are capable of allowing liquids to flow between adjacent cassettes. This would have been beneficial because it would have allowed each cassette to receive fluid medium at a uniform and identical flow rate. Since each of the cassettes would share fluid medium, culture conditions in each stacked cassette would remain consistent.

2) Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathus (US 5856176) in view of Berry (US 5240854) as applied to claim 6, and further in view of Intengan (US 4440301).

Mathus and Berry disclose the apparatus set forth in claim 6 as set forth in the 35 U.S.C. 103 rejection above, however, do not expressly disclose that the cassettes comprise a locking engagement that snaps together while providing a sensory effect.

Intengan discloses a stackable cassette that includes flexible leafs (Figure 5:50) and bosses (Figure 5:62) designed to interact with the leafs and bosses of similar cassettes when stacked. Column 2, lines 3-14 and column 3, line 40 to column 4, line 5 state that the leafs are flexible in nature, and that the leafs and bosses are “snapped” together in order to create a

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locking arrangement between multiple cassettes. It is known in the art and it is common knowledge that a “snapping” action produces an audible, sensory effect that signifies when a locking arrangement has been formed.

Mathus, Berry and Intengan are analogous art because they are from the same field of endeavor regarding stackable cassettes for biological samples.

At the time of the invention, it would have been obvious to ensure that the components of Mathus were flexible and capable of interlocking using a snapping action. In column 2, lines 8-14, Intengan teaches that this arrangement is beneficial because it allows the cassettes to be frictionally held together so that the cassettes will remain in an organized stack. In this way, the cassettes are arranged in an orderly fashion, and will be less prone to contamination and leakage during storage. The snapping action of the engagement between leaf and boss is also desirable because it produces an audible effect that verifies that a tight lock between cassettes has been produced.

### *Response to Arguments*

Applicant's arguments filed 13 September 2007 with respect to the 35 U.S.C. 103 rejections involving the combination of Lafond and Intengan have been fully considered and are persuasive. Therefore, these rejections have been withdrawn. However, upon further consideration, a new ground of rejection is made in view of the combination of Mathus and Berry.

It is understood that the combination of Mathus and Berry discloses all limitations set forth in the independent claims, including the use of a plurality of apertures extending through the bottom of the second cassette.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

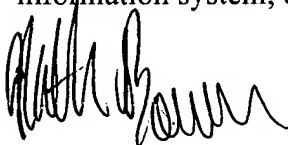
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A. Bowers whose telephone number is (571) 272-8613. The examiner can normally be reached on Monday-Friday 8 AM to 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NAB



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SUPERVISORY PATENT EXAMINER